IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 9404 of 2003

Between:

1. Guna Sri Ramulu S/o. Late Chittibabu, Working as Paid Secretary, Thrilangi PACS, Tekkali (M), Srikakukalm District.

2. Barla Thrinadha Rao, S/o. Late Guruaiah, Working as Clerk, Thrilangi PACS, Tekkali (M), Srikakukalm District.

3. Bobbili Dharma Rao, S/o. Thavudu, Working as Paid Secretary, Dimmijola PACS, Nandigam (M), Srikakukalm District.

4. K. Prabhakara Rao, S/o. K. Shashi Gopalam, Working as Paid Secretary, Temburu PACS, Nandigam (M), Srikakukalm District.

5. A. Rama Rao, S/o. Simmanna, Working as Clerk, Temburu PACS, Nandigam (M), Srikakukalm District.

... PETITIONERS

AND

1. The Divisional Co-operative Officer, Takkali, Srikakulam District.

2. The Person-in-Charge, Thrilangi PACs, Tekkali (M), Srikakulam District.

3. The Person-in-Charge, Dimmidi Jola PACS, Nandigam (M), Srikakulam District.

4. The Person-in-Charge, Temburu PACS, Nandigam (M), Srikakulam District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 1st respondent in issuing proceedings RC.No.2183/2002-C, dated 08.04.2003 directing for terminating the services of all the petitioners and consequential action of the 2nd, 3rd and 4th respondents in proposing to terminate the petitioners after a long spell of 26 years of service is highly illegal, arbitrary and vilolative of Articles 14 and 21 of the Constitution of India, and consequently by setting aside the impugned proceedings of the 1st respondent and the petitioners are entitled to continue their services, withholding the salaries of the 3rd petitioner, pending policy decision

Counsel for the Petitioners: SMT.A.PADMA

Counsel for the Respondent No.1: GP FOR AGRICULTURE

GP FOR COOPERATION

Counsel for the Respondents 2 to 4: None Appeared

The Court made the following order:

ORDER:

Petitioners are the employees of Thrilangi, Dimmidi Jola and Temburu – Primary Agricultural Cooperative Societies of Srikakulam District. They have questioned the proceedings of the Divisional Cooperative Officer, Tekkali, dated 08.04.2003, which reads as follows:

"Conditions Laid Down

1. The Subject of 116(C) was not approved in the general body meeting as required and it should be got approved in the said meeting.
2. As seen from the proposals of the Society, there is no amount available in the Society under 30% of the gross profit or 2% of the working capital. The P.I.C. of the Society is therefore advised to remove the employees after following the due procedure otherwise the amount incurred on Estt. & Contgt. Charges would have to be recovered from the concerned through Surcharge who allowed the expenditure.
3. The P.I.C is instructed to attend all the items of work in the Society, as there is no provision for appointment of part-time staff."

Learned counsel appearing for the petitioners submits that the said proceedings

dated 08.04.2003 is illegal, arbitrary and contrary to rule 72 of the Andhra Pradesh Cooperative Society Rules, 1974, as the petitioners ought to be treated as permanent employees of the respective societies after decaderization in their cadre and therefore their services cannot be terminated without following the procedure prescribed in law.

It is further stated that after insertion of Section 116(C) of the Andhra Pradesh Cooperative Societies Act, 1964 relating to the method and manner of staffing pattern of the societies, the societies shall have the power to fix the staffing pattern, pay scales and other allowances for its employees with the prior approval of the Registrar of Cooperative Societies subject to the condition that the expenditure shall not exceed 2 per cent of the working capital or 30 per cent of the gross profit in terms of actuals in a year whichever is less. To implement the said Section guidelines have not been prescribed and on the oral instructions of the Cooperative Society Officers, the societies are not releasing the monthly salaries of the petitioners. Therefore, the action of the Divisional Cooperative Officer in issuing the proceedings dated 08.04.2003 is illegal and against the provisions of the Act.

Learned counsel appearing for the petitioners has not placed any papers relating to the approved staffing pattern of the employees of the respective societies and the appointment of the petitioners as against the approved vacancies by the Registrar of Cooperative Societies. The order of the District Revenue Officer/Chairman, Appointments Committee of Paid Secretaries, Srikakulam District Cooperative Central Bank Limited, dated 04.06.1978 in RC.No.253/77-78.A1 discloses that the first petitioner is appointed temporarily as Paid Secretary on a consolidated pay. There is no appointment order showing that their appointment is in conformity with Section 116 (C) of the Act. Therefore, the Divisional Cooperative Officer only reiterated the conditions to be followed as laid down under Section 116 (C) r/w rules 28(4) (b) and 36 (B) of the Andhra Pradesh Cooperative Society Rules.

All the contentions of the learned counsel for the petitioners have been considered and answered in WP.No.3171 of 2003 and batch dated 30.08.2004 rejecting the same.

I am of the opinion that this writ petition is squarely covered by the aforesaid

judgment. The writ petition is accordingly dismissed in terms thereof. No costs.

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V. ESWARAIAH, J

November 4, 2004

Dsk

To

1. The Divisional Co-operative Officer, Takkali, Srikakulam District.

2. Two CCs to GP For Cooperation, High Court Buildings, Hyderabad

(OUT).

3. Two CCs to GP For Agriculture, High Court Buildings, Hyderabad

(OUT).

4. Two CD Copies.